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May 25, 2005

## **EX PARTE PRESENTATION**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**Re: Universal Service Contribution Methodology, *Ex Parte* Presentation in CC  
Docket No. 96-45**

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Federal Communications Commission (“FCC” or “Commission”) rules, 47 C.F.R. § 1.1206, ACUTA, Inc.: The Association for Communications Technology Professionals in Higher Education (“ACUTA”) respectfully submits this ex-parte presentation in the above-referenced docket addressing the four contribution methodologies that the Commission has proposed to fund the federal universal service program.<sup>1</sup> ACUTA has studied in detail the FCC’s Staff Study report delineating the four plans and conducted a survey of its member institutions to assist in developing the positions described herein.<sup>2</sup>

At this time, ACUTA does not advocate on behalf of any of the four proposed methodologies. Rather, ACUTA provides the Commission with perspective as to the variety of existing telecommunications configurations within the higher education community, and also wishes to highlight a number of threshold issues that will likely guide the FCC’s selection of a new methodology. As described herein, the deleterious impact of a new methodology – if not properly configured – on colleges and universities could be substantial.

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<sup>1</sup> ACUTA is a non-profit association whose members include over 800 institutions of higher education within the United States. ACUTA members include both large and small non-profit institutions of higher education, ranging from institutions with several hundred students to major research and teaching institutions with greater than 25,000 students. ACUTA member representatives are responsible for managing communications services for students, faculty and staff on college and university campuses.

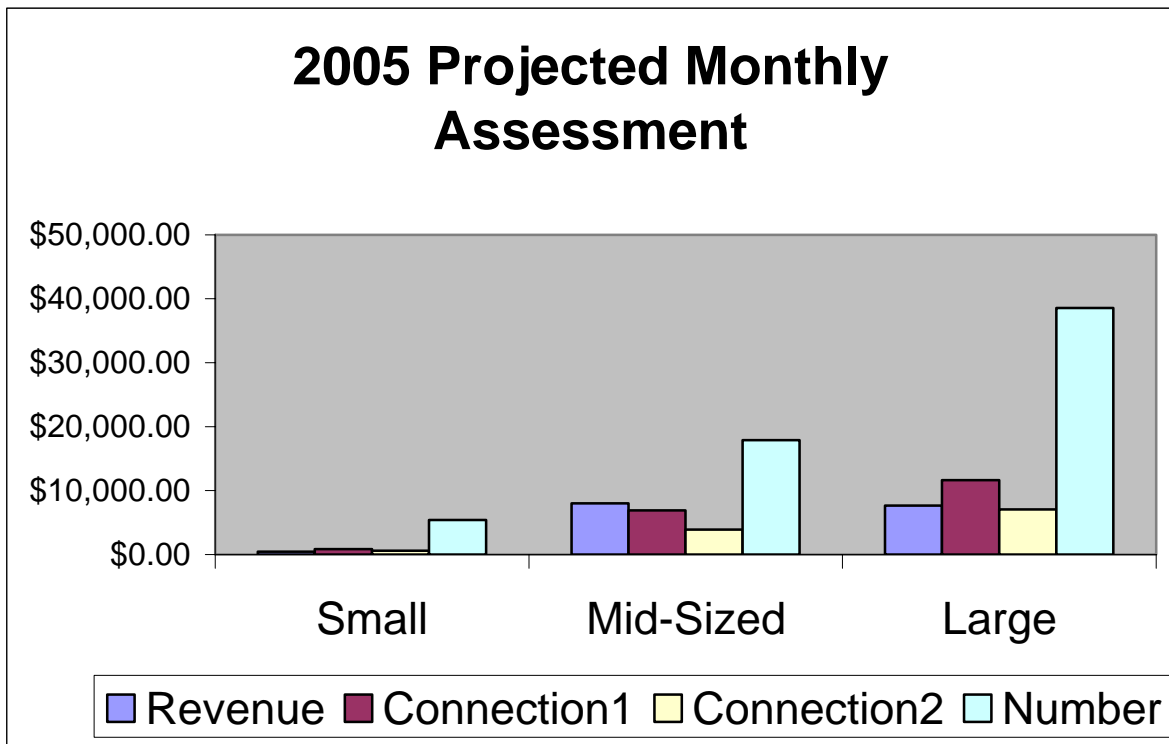
<sup>2</sup> *Federal-State Joint Board on Universal Service*, Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 02-329 (2002); *Commission Seeks Comment on Staff Study Regarding Alternative Contribution Methodologies*, CC Docket No. 96-45, FCC 03-31 (Feb. 26, 2003) (“*Staff Study*”).

## Potential Impact of Proposed Methodologies on Higher Education

ACUTA has reviewed and applied the FCC's staff study projections for each of the four proposed methodologies to three broad categories of colleges and universities, *e.g.*, small institutions (less than 2,500 students), mid-sized institutions (between 6,000-11,999 students), and large institutions (greater than 12,000 students). ACUTA conducted a survey of member institutions to assist in developing the model school for each category.

The intent of these models was only to provide a snapshot view of the impact of the FCC's proposal on different types of institutions, and to provide greater insight to the FCC as to the variety of telecommunications needs and usage within the broader higher education community. There remain significant differences within and amongst the categories of institutions, as each college and university has its own technological infrastructure based upon the specific needs and capabilities of its institution.

Nonetheless, the impact of the FCC's proposed methodologies on each category of schools is largely consistent. Specifically, the chart below illustrates the projected monthly obligations for all three categories of schools, using the projections and assessment for 2005 assumed in the Staff Study. The first three contribution methodologies (revenue-based, and both connection-based options) have similar results, which vary depending upon school category. The number-based plan as currently configured, however, produces results exponentially higher, and clearly inconsistent with ACUTA member institutions' current contribution levels.



Importantly, ACUTA does not object to a number-based proposal in theory: a number-based plan may prove to be the most administratively efficient and effective methodology. ACUTA's concerns are limited to the number-based plan as proposed: specifically, the multi-line business contribution triggers under that plan, and the great potential for a dramatic increase in the contribution obligation for large institutions. The two central issues are whether direct inward dial numbers are assessed for multi-line business customers in addition to capacity-based charges, and the appropriateness of the Commission's assumptions with respect to numbers per trunk for multi-line businesses. Verizon correctly cautioned against the potential for "rate shock" to large institutions under a number-based approach. *See* Verizon, Ex Parte Presentation, CC Docket No. 96-45 (May 3, 2005).

Specifically, the Study states that a "T1 ... configured as 100 direct inward dial phones" is assessed 100 per-number assessments. *Staff Study* at 8. This suggests that each direct inward dial number is assessed individually, but such assessment results in an unreasonable total universal service contribution obligation for higher education institutions, particularly when such charges are in addition to other capacity-based surcharges. By way of example, small institutions (less than 2,500 students) have an average of 4,192 direct inward dial numbers, mid-sized institutions have approximately 11,142 direct inward dial numbers and large institutions (over 12,000 students) have an average of 22,000 numbers. These figures are approximations and the actual numbering resources at each institution may vary considerably. Nonetheless, further clarification is warranted as to the specific manner in which multi-line businesses would be assessed under a number-based plan, and whether an assessment based on both direct inward dial numbers and high-capacity circuits results in double (if not multiple) assessments on colleges and universities.

The impact on large telecommunications users can be attributed, in part, due to the faulty assumption incorporated into the Staff Study with respect to multi-line business users' numbers per trunks. The Staff Study suggests that there are 3.98 numbers per trunk, which may be an accurate figure for a small business. *Staff Study* at 17-18. Large institutions, like colleges and universities, typically maintain significantly higher numbers per trunk. By way of example, a mid-sized school may have as many as 50 numbers per trunk based upon the institution's telecommunication usage and traffic engineering.

#### Important Factors and Themes in Developing a New Methodology

As the FCC examines its proposals to determine the proper means by which to collect universal service monies in a manner consistent with Section 254 of the Act and the public interest, there are a number of issues that ACUTA believes are fundamental to that decision:

**Controlling Fund Size.** The contribution factor in the second quarter of 2000 was 5.7 percent. Today, the contribution factor has nearly doubled to 11.1 percent. Such significant growth over such a short period of time would endanger any methodology.

Thus, expanding the base of contributors through the adoption of a connection or number-based approach would likely be a short-term correction if fund expenditures were not also curtailed. Towards that end, the Commission should be commended for its recent efforts to curb waste, fraud, and abuse in the E-Rate program. The FCC must also remain vigilant in balancing the significant costs of the universal service program against the admittedly more recognizable benefits of the program.

**Dictating Technological Choices.** The Commission’s universal service policies, and the corresponding financial obligation, should not determine the investment and technological decisions of ACUTA member institutions.

*High-Capacity Circuits.* ACUTA appreciates the balancing effort facing the FCC with respect to the manner in which high-capacity circuits are assessed universal service obligations under a connection-based or number-based approach. There are two fundamental issues: (1) the number of capacity-based tiers; and (2) the size of the obligation under each tier. Importantly, universal service policy should not hasten, or impede, the transition of facilities to or from DS1s, DS3s or other network configurations. The continued development of campus facilities, including further expansion of Internet2-like networks, requires maximum flexibility and technologically neutral regulatory policies.

*Assigned v. Working Numbers.* ACUTA has previously explained that working numbers, as opposed to assigned numbers, is a more appropriate input into a contribution methodology, and more consistent with the FCC’s numbering policies. *See Comments of ACUTA*, CC Docket No. 96-45, at 4 (Apr. 18, 2003); *Comments of ACUTA*, CC Docket No. 96-45, at 3 (Feb. 28, 2003). Intra-campus communications and network design could require significant overhaul – at significant economical, public safety, and societal cost – if numbering blocks maintained year-round and resources reserved for future campus priorities had to be reduced or eliminated altogether due to the regulatory costs of maintaining assigned, but not working, telephone numbers. Importantly, limiting a number-based plan to working numbers alone would not reduce the potential for significant rate shock to institutions of higher education.

*Use of Direct Inward Dial Numbers.* The Commission acknowledged that the universal service obligation under a number-based approach could vary significantly “depending upon whether they utilize a single published telephone number ... or whether they employ direct inward dialing for each phone.” *Staff Study* at 17. Clearly the manner in which offices and institutions design their telecommunications networks should not be dictated by the size of universal service contribution obligations.

*Broadband/VoIP Platforms.* A number of parties have highlighted significant concerns with the different treatment of broadband and IP-enabled services under current rules depending upon the underlying technology, *e.g.*, DSL customers contribute to the USF, cable modem customers do not. Resolution of any

disparity in treatment of similarly situated services should be a key component of the FCC's ultimate decision in this proceeding.

**Risk of Arbitrage.** One of the more prevalent critiques of the current methodology is that carriers and customers seek to avoid or minimize their universal service contribution obligation through manipulation of bundled offerings and other techniques to avoid interstate revenues. Yet the desire (and likely ability) to avoid universal service obligations will exist regardless of the mechanism adopted, particularly in light of the size of consumer's average contribution. By way of example, in the current environment, the assignment of a phone number does not correspond with a significant financial obligation. Under a number-based mechanism, the Commission may see a significant decline in the usage of second lines, fax machines, and direct-dial numbers in order to minimize universal service obligations. What is more, a number-based plan could also hasten the development of products (including, but not limited to, VoIP services) that bypass traditional numbering altogether, *e.g.*, ENUM. Similar risks are also inherent in a connection-based approach. Current trends with respect to number and connection usage are, therefore, likely to change if numbers/connections were to become the basis of the universal service fund.

**Fixed Monitoring Period.** The FCC's Staff Study concedes that "[l]ess data on non-switched high capacity lines sold to businesses is reported to the Commission." *Staff Study* at 12. This lack of perfect data with which to determine the appropriate surcharge for various high-capacity circuits; the associated risks of forced technological choices if the tiers are not properly balanced; and the likely shift in number/connection usage under a new mechanism, warrant a built-in mechanism for periodic reviews of the contribution methodology to correct any inconsistencies and inequities in the new mechanism (particularly with respect to the manner in which high-capacity circuits are assessed). A fixed timetable for corrective action should be part of any such review procedure.

**Proportion of Obligation on Residential and Business Users.** Much has been made in the ongoing debate between competing contribution methodology proposals as to the relative distribution of the obligations "assigned" to particular types of telecommunications providers, *i.e.*, local, long distance, and wireless carriers. Because virtually all contributions are passed through to end-user consumers, the relative division between types of providers is not as fundamental as shifts in the distribution amongst classes of end-user customers.

The Congressional Budget Office recognized that "[u]nder current policy, the relative burden on households [as compared to business customers] is not projected to change substantially between 2003 and 2007." *Financing Universal Telephone Service*, at p. x (Mar. 2005) (available at <http://www.cbo.gov/ftpdocs/61xx/doc6191/03-28-Telephone.pdf>). The ratio between residential and business contributions should remain comparable, if not constant, under any of the proposed mechanisms.<sup>3</sup> Encouragingly, the

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<sup>3</sup> The Keep USF Fair Coalition correctly highlights the need to ensure that low-income, and low-usage customers are not faced with significantly higher contribution

Staff Study reports that at least three of the proposals outlined would maintain, within the same general range, the relative business and residential contribution share. *See Staff Study* at 5-8. Intent and implementation are, however, separate issues, and inaccurate forecasting, particularly with respect to high-capacity circuits, could jeopardize the FCC's apparent objective. At a minimum, no plan should be adopted that requires multi-line businesses to be responsible for a residual funding amount, nor should residential customers have a locked-in contribution figure.

We look forward to discussing these issues with you further.

Respectfully submitted,

*/s/ Tamara Closs*

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obligations under a new approach, yet the same principle applies for many "business" customers. Letter from Keep USF Fair Coalition to Chairman Kevin J. Martin, CC Docket 96-45 (filed Apr. 6, 2005). As the Commission is well aware, multi-line businesses are not limited to Fortune 500 companies. Colleges and universities, as well as hospitals, not-for-profits, and local governments are all categorized as multi-line businesses in many states. The Ad Hoc Telecommunications Users Committee has previously explained that there "are many businesses that cannot recover the increases in their universal service contribution obligation ... by increasing the price of their goods and services." Letter from James S. Blaszk, Counsel to the Ad Hoc Telecommunications Users Committee, CC Docket No. 96-45, at 5 (filed Oct. 3, 2002).